Case	3:15-cv-01919-GPC-KSC	Document 32	Filed 11/01/16	PageID.136	Page 1 of 2
1					
2					
3					
4					
5					
6					
7					
8	UNITED STATES DISTRICT COURT				
9	SOUTHERN DISTRICT OF CALIFORNIA				
10	JOHN METZGER and	KRISTINA	CASE NO	. 15cv1919-G	PC(KSC)
11	METZGER, individuall behalf of all others simi	larly situated,	ODDED (GRANTING	DI AINTIEES'
12	v.	Plaintiffs	s, MOTION		S PURSUANT
13	v.			URE 41(a)(2)	
14	IMEDEX, INC., a corpo	oration,	[Dkt. Nos.	29, 31.]	
15	Defendant.				
16					
17	On August 31, 2015, Plaintiffs, with counsel, filed their complaint, individually				
18	and behalf of all others similarly situated. (Dkt. No. 1.) Defendant filed an answer to				
19	the complaint on February 16, 2016. (Dkt. No. 8.) On October 4, 2016, the Court				
20	granted Plaintiffs' counsel's motion to withdraw. (Dkt. No. 28.) As such, on October				
21	17, 2016, Defendant filed a motion to dismiss. (Dkt. No. 29.)				
22	On November 1, 2016, Plaintiffs John and Kristina Metzger, proceeding pro se,				
23	filed a motion to dismiss the complaint without prejudice. (Dkt. No. 31.) Once a				
24	defendant has filed an answer, a plaintiff cannot dismiss without leave of court and				
25	dismissal must be sought under Federal Rule of Civil Procedure ("Rule") 41(a)(2).				
26	Under Rule 41(a)(2), "an action may be dismissed at the plaintiff's request only by				
27	court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). The				
28	district court has discretion whether to grant a voluntary dismissal under Rule 41(a)(2).				

Sams v. Beech Aircraft Corp., 625 F.2d 273, 277 (9th Cir. 1980). The Rule allows a plaintiff to dismiss an action without prejudice as long as the defendant will not be prejudiced or unfairly affected by the dismissal. Stevedoring Servs. of America v. Armilla Intern'l B.V., 889 F.2d 919, 921 (9th Cir. 1989). After a review of the case, and the pending motion to dismiss filed by Defendant, the Court concludes that Defendant will not be prejudiced by the dismissal. Thus, the Court GRANTS Plaintiffs' motion to dismiss pursuant to Federal Rule of Civil Procedure 41(a)(2). As such, the Court DENIES Defendant's motion to dismiss as moot. The Clerk of Court is directed to close the case. IT IS SO ORDERED. DATED: November 1, 2016 Jnited States District Judge

- 2 -